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9 March 1956

MEMORANDUM FOR: Chief, Office of Operations

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ATTENTION:

REFERENCE:

Memorandum to the OGC From Director of Personnel
Dated 11 April 1955, Subject: Employment of
Alien Personnel

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1. This memorandum is in confirmation of a conversation the undersigned held with Miss [] on 2 February 1956, relative to certain personnel problems facing []

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2. The points for discussion were:

a. What was initially intended to be an appointment form was held by OGC to be a contract, (since it cited specific salary and other provisions) and to preclude [] from reducing salaries. [] would like to stick to appointment and want to revise their forms and regulations to make this clear.

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b. [] would like to give permanent appointments to a portion of its employees. Some years ago they were advised that it was impossible to give permanent appointments to aliens. They wish to know if this is now the case. A major reason for desiring to offer permanent appointments is to bring key personnel under the coverage of the Civil Service Retirement Act as an inducement for them to remain with [] as careerists.

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c. Currently, [] regulations and the appointment documents refer to "home leave," which is given at the end of two years' service to foreign national employees who have dislocated in order to perform [] duties, as "contract expiration leave." This terminology is inconsistent with an appointment action. [] would like to know if there is any other authority for granting home leave in these cases.

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3. With reference to the question of permanent appointment, I checked applicable statutes and Civil Service Regulations and talked to Mr. James McGurkin of the Staff of the Civil Service Commission.

Mr. McGurrian confirmed my view that Section 2.104(a) of the Commission's regulations, which restricts aliens to temporary appointments, does not apply to excepted appointments overseas; and it certainly does not apply to positions excluded from the Civil Service Act, such as CIA positions. If there had been any doubt on this in the past, it would now be eradicated by the promulgation of Executive Order 10641, 26 October 1955, which states in Section 8.3:

"Persons who are not citizens of the United States may be recruited overseas and appointed to overseas positions without regard to the Civil Service Act."

Mr. McGurrian also confirmed that such employees, unless they fell within one of the categories excluded from coverage by Executive Order 9154, would be subject to coverage under the Civil Service Retirement Act. He suggested that their appointments, when it was desired to place them under the Act, be denoted "excepted" or "indefinite." "Temporary" appointees are excluded from coverage.

4. After discussing the foregoing, we further considered the intended provisions of the Foreign Employment Personnel Act which is under consideration by the present Congress. It was agreed that the Act, if passed, would provide answers to many of the questions currently plaguing [redacted]. Since the Act might require a different resolution than would the present law, it would be preferable to wait until the Act is passed before attempting any revision of [redacted] procedures and regulations. It was also agreed that I will notify [redacted] of the progress of the Act.

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[redacted]
Assistant General Counsel

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OGC [redacted]
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